

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claims 4, 6-8, and 10-14 are pending. Claims 1-3, 5 and 9 were canceled by prior amendment. Claims 4, 8 and 12-14 have been amended. No new matter has been added.

Claims 4, 6-8 and 10-14 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,084,919 to Kleider et al. ("Kleider").

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Independent claims 4, 8 and 12-14 of the present application have now been amended so as to recite evaluating “digital quality data of a received high frequency digital signal.” Support for the amendment may be found in the Specification at, for example, in originally-filed paragraphs 0002-03. It is respectfully submitted that Kleider does not disclose evaluating digital quality data of a received high frequency digital signal. In contrast, Kleider merely describes obtaining a spectral (i.e., frequency) profile of a channel, and transferring information indicative of that spectral profile to a transmit parameter determination unit 214. See Kleider, col. 3, lines 20-48. A person of ordinary skill in the art would understand that a spectral profile of a channel relates to power level, processing gain, and noise levels across a frequency band (see Kleider, column 2, lines 21-30), and not to the digital quality (for example, bit error rates, etc.) of a received digital signal. Kleider nowhere discloses evaluating the digital quality data of a received high frequency digital signal, as recited in independent claims 4, 8 and 12-14. Therefore, Kleider fails to disclose each and every element of independent claims 4, 8 and 12-14.

Reconsideration and withdrawal of the rejections of claims 4, 6-8, and 10-14 under 35 U.S.C. § 102(e) based on Kleider is respectfully requested.

**CONCLUSION**

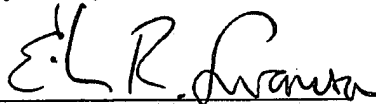
In view of the foregoing it is believed that claims 4, 6-8, and 10-14 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

No fees are believed to be due with the filing of this response. In the event of a fee discrepancy, please charge any fees due in connection with this filing to Deposit Account No. 04-0100 referencing Docket No. 20811/0204775-USO.

Dated: December 15, 2008

Respectfully submitted,

By 

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